

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. NUSF-50
Commission, on its own) Progression Order No. 3
motion, to make adjustments)
to the universal service fund) MOTION TO STRIKE PORTIONS OF
mechanism established in) DIRECT TESTIMONY OF WILLIAM
NUSF-26.) FITZSIMMONS AND PETER B.
COPELAND

In the Matter of the) Application No. C-3554/
Commission, on its own) PI-112
motion, seeking to)
investigate whether the zones)
established in Docket No. C-)
2516 are appropriate in light)
of NUSF-26 findings and) Dated: April 26, 2007
conclusions.)

MOTION TO STRIKE PORTIONS OF DIRECT TESTIMONY OF
WILLIAM FITZSIMMONS AND PETER B. COPELAND

Jeffrey Pursley, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) and Gene Hand, Director of the Telecommunications Department (Collectively "Commission Staff") move to strike the Direct Testimony of William Fitzsimmons and Peter B. Copeland filed in the above-captioned matters on behalf of Qwest Corporation (Qwest). In support of their motion, Commission Staff states the following:

1. On February 28, 2006, the Commission issued Progression Order No. 2 in NUSF-50 seeking comment on a porting methodology (PM) which could be used in coordination with a zone unifying methodology (UM) described in Commission docket C-3554/PI-112. (Staff Proposal) Commission docket C-3554/PI-112 was also opened on February 28, 2006.
2. On April 23, 2002, the Commission entered an order establishing rates for UNE loops in Application No. C-2516/PI-49.¹

¹ *In the Matter of the Commission, on its own motion, to investigate cost studies to establish Qwest Corporation's rates for interconnection, unbundled network elements, transport and termination, and resale*, Application No. C-2516/PI-49, Findings and Conclusions (April 23, 2002) at Appendix B. (C-2516).

3. A staff proposal was hereby released for comment and testimony on February 13, 2007.²
4. On or about April 17, 2007, Qwest filed Direct Testimony of William Fitzsimmons and Direct Testimony of Peter B. Copeland.
5. Qwest did not file an appeal to the Commission's decision in NUSF-26 and is therefore precluded from challenging the methodology at this time.
6. The underlying rates established in C-2516 are not at issue in the present investigation.
7. Furthermore, the staff proposal was released for the sole purpose of seeking comment and making a determination regarding reallocation of rates between urban and rural zones.
8. Mr. Fitzsimmons' testimony constitutes a collateral challenge to the methodology established by the Commission in Application No. NUSF-26³.
9. Mr. Fitzsimmons' testimony is beyond the scope of the hearing currently scheduled for May 1, 2007 on the Staff Proposal, and is therefore irrelevant.
10. Similarly, Mr. Copeland's testimony constitutes a collateral challenge to the rates established in C-2516; is beyond the scope of the hearing currently scheduled for May 1, 2007, and is therefore irrelevant.
11. Commission staff respectfully requests that all portions of Mr. Fitzsimmons' testimony challenging the methodology established in NUSF-26 be stricken.

² *In the Matter of the Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26, Application No. NUSF-50, Progression Order No. 3 (February 13, 2007) and In the Matter of the Commission on its own motion, seeking to investigate whether the zones established in Docket No. C-2516 are appropriate in light of NUSF-26 findings and conclusions, Application No. C-3554/PI-112, Order Releasing Staff Proposal (February 13, 2007).*

³ *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to establish a long-term universal service funding mechanism, Application No. NUSF-26, Findings and Conclusions, (November 3, 2004 (NUSF-26) and In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to establish a long-term universal service funding mechanism, Application No. NUSF-26, Second Erratum to Progression Order No. 5, (July 22, 2004) (NUSF-26 Appendix A).*

12. Commission staff further requests that all portions of Mr. Copeland's testimony challenging the rates established by the Commission in C-2516 be stricken.

Dated 26th of April 2007.

By: _____
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 26th day of April, 2007, an electronic copy with paper copies following of the foregoing was delivered to:

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